

**TRANSPORTATION CABINET
Motor Vehicle Commission
(New Administrative Regulation)**

605 KAR 1:071. Change of ownership.

RELATES TO: KRS 190.030

STATUTORY AUTHORITY: KRS 190.030, 190.073

NECESSITY, FUNCTION, AND CONFORMITY: KRS 190.030 requires each separate entity acting as a dealer to have a license and to make needed reports to the Motor Vehicle Commission. This administrative regulation establishes requirements for change of ownership of dealer licenses, particularly if a sale or transfer occurs, so that the commission can be on notice of who actually holds a license.

Section 1. (1) All licenses issued by the commission are non-transferable.

(2) A complete change of ownership of a licensee shall require a new Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030 and the appropriate fee.

Section 2. Upon the sale or transfer of a licensee's business or the operating assets of a business to a new individual or entity, the new owner shall secure a new license for each location acquired, unless the acquirer has a valid motor vehicle dealer license for the locations.

Section 3. (1) If the licensee is a corporation or limited liability company, the transfer of the controlling stock or controlling membership interest shall be reported to the commission within fifteen (15) days of the transfer.

(2) The commission may require a new license application based on the reported transfer.

Section 4. The commission shall be notified on a timely basis of the following:

- (1) the death of a licensee who is a sole proprietor;
- (2) the death or dissolution of a general partner of a partnership or limited partnership licensee; or
- (3) the death or dissolution of an owner of the controlling interest of a corporate or limited liability company licensee.

Section 5. In the case of the death of a sole proprietor, the commission may, if the executor or administrator alone, or in conjunction with dealership employees, is capable of operating the business in compliance with KRS Chapter 190, allow a duly qualified executor or administrator to operate the business for the remainder of the calendar year. In the case of the death or dissolution of a partner, or the controlling owner of corporation or limited liability company, the commission shall require a new Application for Motor Vehicle Dealer License, TC 98-1, incorporated by reference in 605 KAR 1:030 and the appropriate fee if the death or dissolution results in a material change to the financial, moral, or operational fitness of the licensee.

DOUG DOTSON, Chairman

APPROVED BY AGENCY: September 15, 2021

FILED WITH LRC: September 20, 2021 at 12:06 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2021 at 9 a.m. local time at the Motor Vehicle

Commission, 200 Mero Street, Frankfort, Kentucky 40601. In the event that in-person meetings are not available, this hearing will be done by video teleconference. Members of the public wishing to attend may utilize the following link: <https://us02web.zoom.us/j/82520305441>, or by telephone at 19292056099, your meeting I.D. to join in is 825 2030 5441. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on December 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below:

CONTACT PERSON: Suzanne Baskett, Executive Staff Advisor, Kentucky Motor Vehicle Commission, 200 Mero Street, Frankfort, Kentucky 40601, phone (502) 573-1000, fax (502) 227-8082, email Suzanne.Baskett@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suzanne Baskett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the requirements for licensee when a change of ownership occurs.

(b) The necessity of this administrative regulation: KRS 190.030 requires each separate entity acting as a dealer to have a license and to make needed reports to the Motor Vehicle Commission.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation sets forth the reporting and application requirements upon change of ownership.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This regulation sets forth the reporting and application requirements upon change of ownership.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effect of administration of the statutes:

(3) List the types and numbers of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect all existing dealers upon change of ownership. The number of such entities is unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation establishes notification and application steps required upon change of ownership.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost to each of the identified entities cannot be reasonably ascertained as there are many scenarios under which ownership may change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that comply with the regulation will be allowed to continue to operate as motor vehicle dealers in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No known costs.

(b) On a continuing basis: There are on-going costs related to administration of the licensing of dealers and enforcement of the regulations. This cost will vary depending on the issues related to each individual dealer.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Application fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: KRS 190.030 and 605 KAR 1:215 establish the associated fees and the Commission does not anticipate a need for any additional or increased fees or funding related to administration of this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. It does not establish or increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied because all nonprofit motor vehicle dealers affected by this regulation are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Motor Vehicle Commission.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 190.035, 190.073.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Revenue to be generated is unknown because the commission cannot determine how many businesses will apply for the applicable license.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Revenue to be generated is unknown because the commission cannot determine how many businesses will renew for the applicable license.

(c) How much will it cost to administer this program for the first year? The cost of administering this program in the first year is unknown as it will depend upon the number of applicants and the issues which arise with regard to applicants and licensees.

(d) How much will it cost to administer this program for the subsequent years? The cost of administering this program in the subsequent years is unknown as it will depend upon the number of applicants and the issues which arise with regard to applicants and licensees.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation: